

**— EXHIBIT 3 —**

**From:** [Justin Boley](#)  
**To:** [Zina Bash](#)  
**Cc:** [bterrell@terrellmarshall.com](mailto:bterrell@terrellmarshall.com); [amcentee@terrellmarshall.com](mailto:amcentee@terrellmarshall.com); [Kenneth Wexler](#); [Zoran Tasic](#); [dgustafson@gustafsongluek.com](mailto:dgustafson@gustafsongluek.com); [dhedlund@gustafsongluek.com](mailto:dhedlund@gustafsongluek.com); [Michelle Looby](#); [Dan Nordin](#); [mstevens@gustafsongluek.com](mailto:mstevens@gustafsongluek.com); [bcebulash@tcllaw.com](mailto:bcebulash@tcllaw.com); [klandau@tcllaw.com](mailto:klandau@tcllaw.com); [erosin@tcllaw.com](mailto:erosin@tcllaw.com); [Warren Postman](#); [steve@hbsslaw.com](mailto:steve@hbsslaw.com); [Steig Olson](#); [Adam Wolfson](#); [Barbara Mahoney](#)  
**Subject:** RE: Amazon  
**Date:** Thursday, August 5, 2021 10:25:04 AM

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Zina,

Thanks for taking the time this week to discuss consolidation. As noted on the phone, we think the tying misconduct supports a separate and distinct case but we also understand that there are some efficiencies to be gained by coordinating proceedings in front of the same judge. As such, we would agree to consolidate the *Hogan* and *Seberson* actions with *De Coster* for the limited purpose of coordinating logistics (i.e., a single master docket and possibly matching or close-to-matching schedules, etc.), but we do not think consolidation for all purposes is appropriate. We can coordinate discovery and other tasks where it makes sense but the substantive differences between the MFN and Tying claims are sufficient enough in our view to warrant separate treatment.

Consistent with that approach, and to avoid inconsistent rulings, we would file a single amended complaint combining the *Hogan* and *Seberson* actions. The amended complaint would drop our Section 2 monopolization count and only proceed with the Section 1 tying count. That change would eliminate the potential for inconsistent rulings on the monopolization relevant market element. If this approach works for you, we can stipulate to consolidation for coordination purposes and come up with language along those lines for the court.

Thanks again for talking with us this week and I hope we can work together. If it would be helpful for us to get on the phone again, please let us know.

**Justin N. Boley**

**WEXLER WALLACE LLP**

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**From:** Zina Bash <[zina.bash@kellerlenkner.com](mailto:zina.bash@kellerlenkner.com)>

**Sent:** Monday, August 2, 2021 5:27 PM

**To:** Justin Boley <[jnb@wexlerwallace.com](mailto:jnb@wexlerwallace.com)>

**Cc:** [bterrell@terrellmarshall.com](mailto:bterrell@terrellmarshall.com); [amcentee@terrellmarshall.com](mailto:amcentee@terrellmarshall.com); [Kenneth Wexler](#) <[kaw@wexlerwallace.com](mailto:kaw@wexlerwallace.com)>; [Zoran Tasic](#) <[zt@wexlerwallace.com](mailto:zt@wexlerwallace.com)>; [dgustafson@gustafsongluek.com](mailto:dgustafson@gustafsongluek.com); [dhedlund@gustafsongluek.com](mailto:dhedlund@gustafsongluek.com); [Michelle Looby](#) <[mlooby@gustafsongluek.com](mailto:mlooby@gustafsongluek.com)>; [Dan Nordin](#) <[dnordin@gustafsongluek.com](mailto:dnordin@gustafsongluek.com)>; [mstevens@gustafsongluek.com](mailto:mstevens@gustafsongluek.com); [bcebulash@tcllaw.com](mailto:bcebulash@tcllaw.com); [klandau@tcllaw.com](mailto:klandau@tcllaw.com); [erosin@tcllaw.com](mailto:erosin@tcllaw.com); [Warren Postman](#) <[wdp@kellerlenkner.com](mailto:wdp@kellerlenkner.com)>; [steve@hbsslaw.com](mailto:steve@hbsslaw.com); [Steig Olson](#) <[steigolson@quinnemanuel.com](mailto:steigolson@quinnemanuel.com)>; [Adam Wolfson](#) <[adamwolfson@quinnemanuel.com](mailto:adamwolfson@quinnemanuel.com)>; [Barbara Mahoney](#) <[barbaram@hbsslaw.com](mailto:barbaram@hbsslaw.com)>

**Subject:** RE: Amazon

Justin,

Thanks for your email. We are available tomorrow at 1:00 CT to discuss. Conference line is below.  
Look forward to speaking.

Toll-Free Dial-in (US/Canada): 1-800-201-6394  
Conference Code: 321122

**Zina Bash**  
Partner

**Keller | Lenkner**

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**From:** Justin Boley <[jnb@wexlerwallace.com](mailto:jnb@wexlerwallace.com)>

**Sent:** Monday, August 2, 2021 2:24 PM

**To:** Zina Bash <[zina.bash@kellerlenkner.com](mailto:zina.bash@kellerlenkner.com)>

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**Subject:** Re: Amazon

Zina,

Thanks for reaching out. Are you and relevant team members available tomorrow 1:00pm central for a call to discuss? If that's a bad time, we could also do any time after 1:00pm.

Justin N. Boley  
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On Aug 2, 2021, at 11:43 AM, Zina Bash <[zina.bash@kellerlenkner.com](mailto:zina.bash@kellerlenkner.com)> wrote:

Counsel,

We are counsel for Plaintiffs in *De Coster et al. v. Amazon*, Case No. 2:21-cv-00693, and believe that your cases, *Hogan v. Amazon*, Case No. 2:21-cv-00996, and *Sebersson v. Amazon*, 2:21-cv-01009, are related to and should be consolidated with *De Coster*. We would like to file a stipulation to consolidate or motion to consolidate—depending on your view of consolidation—early this week. Would you let us know your position with respect to consolidation at your earliest opportunity? We are available to discuss with you live.

Thank you.

**Zina Bash**  
Partner

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